

By: Phelan

H.B. No. 4299

A BILL TO BE ENTITLED

AN ACT

relating to the creation of Port Neches Improvement District; providing authority to issue bonds; providing authority to impose assessments, fees, or taxes.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subtitle C, Title 4, Special District Local Laws Code, is amended by adding Chapter 3956 to read as follows:

CHAPTER 3956. PORT NECHES IMPROVEMENT DISTRICT

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 3956.001. DEFINITIONS. In this chapter:

(1) "Board" means the district's board of directors.

(2) "City" means the City of Port Neches.

(3) "County" means Jefferson County.

(4) "Director" means a board member.

(5) "District" means the Port Neches Improvement District.

Sec. 3956.002. NATURE OF DISTRICT. The Port Neches Improvement District is a special district created under Section 59, Article XVI, Texas Constitution.

Sec. 3956.003. PURPOSE; DECLARATION OF INTENT. (a) The creation of the district is essential to accomplish the purposes of Sections 52 and 52-a, Article III, and Section 59, Article XVI, Texas Constitution, and other public purposes stated in this chapter. By creating the district and in authorizing the city, the

1 county, and other political subdivisions to contract with the
2 district, the legislature has established a program to accomplish
3 the public purposes set out in Section 52-a, Article III, Texas
4 Constitution.

5 (b) The creation of the district is necessary to promote,
6 develop, encourage, and maintain employment, commerce,
7 transportation, housing, tourism, recreation, the arts,
8 entertainment, economic development, safety, and the public
9 welfare in the district.

10 (c) This chapter and the creation of the district may not be
11 interpreted to relieve the city or the county from providing the
12 level of services provided as of the effective date of the Act
13 enacting this chapter to the area in the district. The district is
14 created to supplement and not to supplant city or county services
15 provided in the district.

16 Sec. 3956.004. FINDINGS OF BENEFIT AND PUBLIC PURPOSE. (a)
17 The district is created to serve a public use and benefit.

18 (b) All land and other property included in the district
19 will benefit from the improvements and services to be provided by
20 the district under powers conferred by Sections 52 and 52-a,
21 Article III, and Section 59, Article XVI, Texas Constitution, and
22 other powers granted under this chapter.

23 (c) The creation of the district is in the public interest
24 and is essential to further the public purposes of:

25 (1) developing and diversifying the economy of the
26 state;

27 (2) eliminating unemployment and underemployment; and

1 (3) developing or expanding transportation and
2 commerce.

3 (d) The district will:

4 (1) promote the health, safety, and general welfare of
5 residents, employers, potential employees, employees, visitors,
6 and consumers in the district, and of the public;

7 (2) provide needed funding for the district to
8 preserve, maintain, and enhance the economic health and vitality of
9 the district territory as a community and business center;

10 (3) promote the health, safety, welfare, and enjoyment
11 of the public by providing pedestrian ways and by landscaping and
12 developing certain areas in the district, which are necessary for
13 the restoration, preservation, and enhancement of scenic beauty;

14 (4) provide for road and recreational facilities for
15 the district; and

16 (5) provide for water, wastewater, drainage, canals,
17 waterways, bulkheads, docks, and other similar improvement
18 facilities for the district.

19 (e) Pedestrian ways along or across a street, whether at
20 grade or above or below the surface, and street lighting, street
21 landscaping, parking, and street art objects are parts of and
22 necessary components of a street and are considered to be a street
23 or road improvement.

24 (f) The district will not act as the agent or
25 instrumentality of any private interest even though the district
26 will benefit many private interests as well as the public.

27 Sec. 3956.005. DISTRICT TERRITORY. (a) The district is

1 initially composed of the territory described by Section 2 of the
2 Act enacting this chapter.

3 (b) The boundaries and field notes contained in Section 2 of
4 the Act enacting this chapter form a closure. A mistake in the
5 field notes or in copying the field notes in the legislative process
6 does not affect the district's:

7 (1) organization, existence, or validity;

8 (2) right to issue any type of bonds for the purposes
9 for which the district is created or to pay the principal of and
10 interest on the bonds;

11 (3) right to impose or collect an assessment or tax; or

12 (4) legality or operation.

13 Sec. 3956.006. ELIGIBILITY FOR INCLUSION IN SPECIAL ZONES.

14 All or any part of the area of the district is eligible to be
15 included in:

16 (1) a tax increment reinvestment zone created under
17 Chapter 311, Tax Code;

18 (2) a tax abatement reinvestment zone created under
19 Chapter 312, Tax Code;

20 (3) an enterprise zone created under Chapter 2303,
21 Government Code; or

22 (4) an industrial district created under Chapter 42,
23 Local Government Code.

24 Sec. 3956.007. APPLICABILITY OF MUNICIPAL MANAGEMENT
25 DISTRICTS LAW. Except as otherwise provided by this chapter,
26 Chapter 375, Local Government Code, applies to the district.

27 Sec. 3956.008. LIBERAL CONSTRUCTION OF CHAPTER. This

1 chapter shall be liberally construed in conformity with the
2 findings and purposes stated in this chapter.

3 SUBCHAPTER B. BOARD OF DIRECTORS

4 Sec. 3956.051. GOVERNING BODY; TERMS. The district is
5 governed by a board of seven voting directors who serve staggered
6 terms of two years, with three or four directors' terms expiring
7 June 1 of each year.

8 Sec. 3956.052. ELIGIBILITY OF DIRECTORS. A person is
9 eligible to serve as a voting or nonvoting director only if the
10 person is eligible to register to vote under Section 13.001,
11 Election Code.

12 Sec. 3956.053. APPOINTMENT OF VOTING DIRECTORS. The
13 governing body of the city, including the mayor, shall appoint the
14 voting directors. A person is appointed if a majority of the
15 members of the governing body vote to appoint that person.

16 Sec. 3956.054. NONVOTING DIRECTORS. The board may appoint
17 nonvoting directors to serve at the pleasure of the voting
18 directors.

19 Sec. 3956.055. QUORUM. For purposes of determining the
20 requirements for a quorum of the board, the following are not
21 counted:

22 (1) a board position vacant for any reason, including
23 death, resignation, or disqualification;

24 (2) a director who is abstaining from participation in
25 a vote because of a conflict of interest; or

26 (3) a nonvoting director.

27 Sec. 3956.056. COMPENSATION. A director is entitled to

1 receive fees of office and reimbursement for actual expenses as
2 provided by Section 49.060, Water Code. Sections 375.069 and
3 375.070, Local Government Code, do not apply to the board.

4 Sec. 3956.057. INITIAL VOTING DIRECTORS. (a) The initial
5 board consists of the following directors:

	<u>Pos. No.</u>	<u>Name of Director</u>
6		
7	<u>1.</u>	<u>David LeJeune</u>
8	<u>2.</u>	<u>Leslie Symmonds</u>
9	<u>3.</u>	<u>Olin Clotiaux</u>
10	<u>4.</u>	<u>Doug Savant</u>
11	<u>5.</u>	<u>Lance Bradley</u>
12	<u>6.</u>	<u>Kathy Levingston</u>
13	<u>7.</u>	<u>Aspen Hebert</u>

14 (b) Of the initial directors, the terms of directors
15 appointed for positions one through four expire June 1, 2018, and
16 the terms of directors appointed for positions five through seven
17 expire June 1, 2019.

18 (c) Section 3956.053 does not apply to this section.

19 (d) This section expires September 1, 2019.

20 SUBCHAPTER C. POWERS AND DUTIES

21 Sec. 3956.101. GENERAL POWERS AND DUTIES. The district has
22 the powers and duties necessary to accomplish the purposes for
23 which the district is created.

24 Sec. 3956.102. IMPROVEMENT PROJECTS AND SERVICES. The
25 district may provide, design, construct, acquire, improve,
26 relocate, operate, maintain, or finance an improvement project or
27 service using any money available to the district, or contract with

1 a governmental or private entity to provide, design, construct,
2 acquire, improve, relocate, operate, maintain, or finance an
3 improvement project or service authorized under this chapter or
4 Chapter 375, Local Government Code.

5 Sec. 3956.103. DEVELOPMENT CORPORATION POWERS. The
6 district, using money available to the district, may exercise the
7 powers given to a development corporation under Chapter 505, Local
8 Government Code, including the power to own, operate, acquire,
9 construct, lease, improve, or maintain a project under that
10 chapter.

11 Sec. 3956.104. NONPROFIT CORPORATION. (a) The board by
12 resolution may authorize the creation of a nonprofit corporation to
13 assist and act for the district in implementing a project or
14 providing a service authorized by this chapter.

15 (b) The nonprofit corporation:

16 (1) has each power of and is considered to be a local
17 government corporation created under Subchapter D, Chapter 431,
18 Transportation Code; and

19 (2) may implement any project and provide any service
20 authorized by this chapter.

21 (c) The board shall appoint the board of directors of the
22 nonprofit corporation. The board of directors of the nonprofit
23 corporation shall serve in the same manner as the board of directors
24 of a local government corporation created under Subchapter D,
25 Chapter 431, Transportation Code, except that a board member is not
26 required to reside in the district.

27 Sec. 3956.105. AGREEMENTS; GRANTS. (a) As provided by

1 Chapter 375, Local Government Code, the district may make an
2 agreement with or accept a gift, grant, or loan from any person.
3 The district shall promptly notify the city of any gift or grant
4 accepted by the district.

5 (b) The implementation of a project is a governmental
6 function or service for the purposes of Chapter 791, Government
7 Code.

8 Sec. 3956.106. LAW ENFORCEMENT SERVICES. To protect the
9 public interest, the district may contract with a qualified party,
10 including the county or the city, to provide law enforcement
11 services in the district for a fee.

12 Sec. 3956.107. MEMBERSHIP IN CHARITABLE ORGANIZATIONS. The
13 district may join and pay dues to a charitable or nonprofit
14 organization that performs a service or provides an activity
15 consistent with the furtherance of a district purpose.

16 Sec. 3956.108. PARKING FACILITIES. (a) The district may
17 acquire, lease as lessor or lessee, construct, develop, own,
18 operate, and maintain parking facilities or a system of parking
19 facilities, including lots, garages, parking terminals, or other
20 structures or accommodations for parking motor vehicles off the
21 streets and related appurtenances.

22 (b) The district's parking facilities serve the public
23 purposes of the district and are owned, used, and held for a public
24 purpose even if leased or operated by a private entity for a term of
25 years.

26 (c) The district's parking facilities are parts of and
27 necessary components of a street and are considered to be a street

1 or road improvement.

2 (d) The development and operation of the district's parking
3 facilities may be considered an economic development program.

4 Sec. 3956.109. ANNEXATION OF LAND. The district may annex
5 land as provided by Subchapter J, Chapter 49, Water Code.

6 Sec. 3956.110. NAVIGATION DISTRICT POWERS. The district
7 has the powers provided by the general law of this state applicable
8 to navigation districts created under Section 59, Article XVI,
9 Texas Constitution, including Chapters 60 and 62, Water Code.

10 Sec. 3956.111. APPROVAL BY CITY. (a) Except as provided
11 by Subsection (c), the district must obtain the approval of the city
12 for:

13 (1) the issuance of bonds or any other obligations,
14 subject to Section 3956.201 or 3956.203;

15 (2) the plans and specifications of an improvement
16 project financed by bonds; and

17 (3) the plans and specifications of an improvement
18 project related to the use of land owned by the city, an easement
19 granted to or by the city, or a right-of-way of a street, road, or
20 highway.

21 (b) The district may not issue bonds until the governing
22 body of the city adopts a resolution or ordinance authorizing the
23 issuance of the bonds.

24 (c) If the district obtains the approval of the city's
25 governing body of a capital improvements budget for a period not to
26 exceed five years, the district may finance the capital
27 improvements and issue bonds specified in the budget without

1 further approval from the city.

2 (d) The governing body of the city:

3 (1) is not required to adopt a resolution or ordinance
4 to approve plans and specifications described by Subsection (a);
5 and

6 (2) may establish an administrative process to approve
7 plans and specifications described by Subsection (a) without the
8 involvement of the governing body.

9 Sec. 3956.112. CONSENT OF CITY REQUIRED. The district may
10 not take any of the following actions until the city has consented
11 by ordinance or resolution to the creation of the district and to
12 the inclusion of land in the district:

13 (1) hold an election under Subchapter L, Chapter 375,
14 Local Government Code;

15 (2) impose an ad valorem tax;

16 (3) impose an assessment;

17 (4) issue bonds; or

18 (5) enter into an agreement to reimburse the costs of
19 facilities.

20 Sec. 3956.113. NO EMINENT DOMAIN POWER. The district may
21 not exercise the power of eminent domain.

22 SUBCHAPTER D. GENERAL FINANCIAL PROVISIONS; ASSESSMENTS

23 Sec. 3956.151. DISBURSEMENTS AND TRANSFERS OF MONEY. The
24 board by resolution shall establish the number of directors'
25 signatures and the procedure required for a disbursement or
26 transfer of district money.

27 Sec. 3956.152. MONEY USED FOR IMPROVEMENTS OR SERVICES.

1 The district may acquire, construct, finance, operate, or maintain
2 any improvement or service authorized under this chapter or Chapter
3 375, Local Government Code, using any money available to the
4 district.

5 Sec. 3956.153. PETITION REQUIRED FOR FINANCING SERVICES AND
6 IMPROVEMENTS WITH ASSESSMENTS. (a) The board may not finance a
7 service or improvement project with assessments under this chapter
8 unless a written petition requesting that service or improvement
9 has been filed with the board.

10 (b) A petition filed under Subsection (a) must be signed by
11 the owners of a majority of the assessed value of real property in
12 the district subject to assessment according to the most recent
13 certified tax appraisal roll for the county.

14 Sec. 3956.154. ASSESSMENTS; LIENS FOR ASSESSMENTS. (a)
15 The board by resolution may impose and collect an assessment for any
16 purpose authorized by this chapter in all or any part of the
17 district.

18 (b) An assessment, a reassessment, or an assessment
19 resulting from an addition to or correction of the assessment roll
20 by the district, penalties and interest on an assessment or
21 reassessment, an expense of collection, and reasonable attorney's
22 fees incurred by the district:

23 (1) are a first and prior lien against the property
24 assessed;

25 (2) are superior to any other lien or claim other than
26 a lien or claim for county, school district, or municipal ad valorem
27 taxes; and

1 (3) are the personal liability of and a charge against
2 the owners of the property even if the owners are not named in the
3 assessment proceedings.

4 (c) The lien is effective from the date of the board's
5 resolution imposing the assessment until the date the assessment is
6 paid. The board may enforce the lien in the same manner that the
7 board may enforce an ad valorem tax lien against real property.

8 (d) The board may make a correction to or deletion from the
9 assessment roll that does not increase the amount of assessment of
10 any parcel of land without providing notice and holding a hearing in
11 the manner required for additional assessments.

12 SUBCHAPTER E. TAXES AND BONDS

13 Sec. 3956.201. ELECTIONS REGARDING TAXES AND BONDS. (a)
14 The district may issue, without an election, bonds, notes, and
15 other obligations secured by:

16 (1) revenue other than ad valorem taxes; or

17 (2) contract payments described by Section 3956.203.

18 (b) The district must hold an election in the manner
19 provided by Subchapter L, Chapter 375, Local Government Code, to
20 obtain voter approval before the district may impose an ad valorem
21 tax or issue bonds payable from ad valorem taxes.

22 (c) Section 375.243, Local Government Code, does not apply
23 to the district.

24 (d) All or any part of any facilities or improvements that
25 may be acquired by a district by the issuance of its bonds may be
26 submitted as a single proposition or as several propositions to be
27 voted on at the election.

1 Sec. 3956.202. OPERATION AND MAINTENANCE TAX. (a) If
2 authorized by a majority of the district voters voting at an
3 election held in accordance with Section 3956.201, the district may
4 impose an operation and maintenance tax on taxable property in the
5 district in accordance with Section 49.107, Water Code, for any
6 district purpose, including to:

7 (1) maintain and operate the district;

8 (2) construct or acquire improvements; or

9 (3) provide a service.

10 (b) The board shall determine the tax rate. The rate may not
11 exceed the rate approved at the election.

12 Sec. 3956.203. CONTRACT TAXES. (a) In accordance with
13 Section 49.108, Water Code, the district may impose a tax other than
14 an operation and maintenance tax and use the revenue derived from
15 the tax to make payments under a contract after the provisions of
16 the contract have been approved by a majority of the district voters
17 voting at an election held for that purpose.

18 (b) A contract approved by the district voters may contain a
19 provision stating that the contract may be modified or amended by
20 the board without further voter approval.

21 Sec. 3956.204. AUTHORITY TO BORROW MONEY AND TO ISSUE BONDS
22 AND OTHER OBLIGATIONS. (a) The district may borrow money on terms
23 determined by the board. Section 375.205, Local Government Code,
24 does not apply to a loan, line of credit, or other borrowing from a
25 bank or financial institution secured by revenue other than ad
26 valorem taxes.

27 (b) The district may issue bonds, notes, or other

1 obligations payable wholly or partly from ad valorem taxes,
2 assessments, impact fees, revenue, contract payments, grants, or
3 other district money, or any combination of those sources of money,
4 to pay for any authorized district purpose.

5 Sec. 3956.205. TAXES FOR BONDS. At the time the district
6 issues bonds payable wholly or partly from ad valorem taxes, the
7 board shall provide for the annual imposition of a continuing
8 direct annual ad valorem tax, without limit as to rate or amount,
9 for each year that all or part of the bonds are outstanding as
10 required and in the manner provided by Sections 54.601 and 54.602,
11 Water Code.

12 Sec. 3956.206. MUNICIPALITY NOT REQUIRED TO PAY DISTRICT
13 OBLIGATIONS. Except as provided by Section 375.263, Local
14 Government Code, a municipality is not required to pay bonds,
15 notes, or other obligations of the district.

16 SECTION 2. The Port Neches Improvement District initially
17 includes all territory contained in the following area:

18 Lots one through eighteen (1-18), Block One (1), Oaks Subdivision
19 of the City of Port Neches, Jefferson County, Texas as per the plat
20 of said subdivision recorded in Volume 1, page 100, map records of
21 said county.

22 Lots three through thirty-three (3-33), Block Two (2), Oaks
23 Subdivision of the City of Port Neches, Jefferson County, Texas as
24 per the plat of said subdivision recorded in Volume 1, page 100, map
25 records of said county.

26 Lots one through five (1-5), Block Eighteen (18), of Oaks Addition,
27 an Addition to the City of Port Neches, Jefferson County, Texas,

1 according to the map or plat thereof, of record in Volume 1, page
2 100, Map Records of Jefferson County, Texas.

3 SECTION 3. (a) The legal notice of the intention to
4 introduce this Act, setting forth the general substance of this
5 Act, has been published as provided by law, and the notice and a
6 copy of this Act have been furnished to all persons, agencies,
7 officials, or entities to which they are required to be furnished
8 under Section 59, Article XVI, Texas Constitution, and Chapter 313,
9 Government Code.

10 (b) The governor, one of the required recipients, has
11 submitted the notice and Act to the Texas Commission on
12 Environmental Quality.

13 (c) The Texas Commission on Environmental Quality has filed
14 its recommendations relating to this Act with the governor, the
15 lieutenant governor, and the speaker of the house of
16 representatives within the required time.

17 (d) All requirements of the constitution and laws of this
18 state and the rules and procedures of the legislature with respect
19 to the notice, introduction, and passage of this Act are fulfilled
20 and accomplished.

21 SECTION 4. This Act takes effect immediately if it receives
22 a vote of two-thirds of all the members elected to each house, as
23 provided by Section 39, Article III, Texas Constitution. If this
24 Act does not receive the vote necessary for immediate effect, this
25 Act takes effect September 1, 2017.